

ASSEMBLY BILL

No. 681

Introduced by Assembly Member Hernandez

February 26, 2009

An act to amend Section 56.104 of the Civil Code, relating to confidentiality of medical information.

LEGISLATIVE COUNSEL'S DIGEST

AB 681, as introduced, Hernandez. Confidentiality of medical information: psychotherapy.

Existing law prohibits providers of health care, health care service plans, and contractors from releasing medical information to persons authorized by law to receive that information if the information specifically relates to a patient's participation in outpatient treatment with a psychotherapist, unless the requester of the information submits a specified written request for the information to the patient and to the provider of health care, health care service plan, or contractor. However, existing law excepts from those provisions specified disclosures that are made for the purpose of diagnosis or treatment of a patient.

This bill would also except from those provisions disclosures that are made to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56.104 of the Civil Code is amended to
2 read:

1 56.104. (a) Notwithstanding subdivision (c) of Section 56.10,
2 except as authorized in paragraph (1) *and paragraph (19)* of
3 subdivision (c) of Section 56.10, no provider of health care, health
4 care service plan, or contractor may release medical information
5 to persons or entities authorized by law to receive that information
6 pursuant to subdivision (c) of Section 56.10, if the requested
7 information specifically relates to the patient's participation in
8 outpatient treatment with a psychotherapist, unless the person or
9 entity requesting that information submits to the patient pursuant
10 to subdivision (b) and to the provider of health care, health care
11 service plan, or contractor a written request, signed by the person
12 requesting the information or an authorized agent of the entity
13 requesting the information, that includes all of the following:

14 (1) The specific information relating to a patient's participation
15 in outpatient treatment with a psychotherapist being requested and
16 its specific intended use or uses.

17 (2) The length of time during which the information will be
18 kept before being destroyed or disposed of. A person or entity may
19 extend that timeframe, provided that the person or entity notifies
20 the provider, plan, or contractor of the extension. Any notification
21 of an extension shall include the specific reason for the extension,
22 the intended use or uses of the information during the extended
23 time, and the expected date of the destruction of the information.

24 (3) A statement that the information will not be used for any
25 purpose other than its intended use.

26 (4) A statement that the person or entity requesting the
27 information will destroy the information and all copies in the
28 person's or entity's possession or control, will cause it to be
29 destroyed, or will return the information and all copies of it before
30 or immediately after the length of time specified in paragraph (2)
31 has expired.

32 (b) The person or entity requesting the information shall submit
33 a copy of the written request required by this section to the patient
34 within 30 days of receipt of the information requested, unless the
35 patient has signed a written waiver in the form of a letter signed
36 and submitted by the patient to the provider of health care or health
37 care service plan waiving notification.

38 (c) For purposes of this section, "psychotherapist" means a
39 person who is both a "psychotherapist" as defined in Section 1010

1 of the Evidence Code and a “provider of health care” as defined
2 in subdivision (i) of Section 56.05.

3 (d) This section does not apply to the disclosure or use of
4 medical information by a law enforcement agency or a regulatory
5 agency when required for an investigation of unlawful activity or
6 for licensing, certification, or regulatory purposes, unless the
7 disclosure is otherwise prohibited by law.

8 (e) Nothing in this section shall be construed to grant any
9 additional authority to a provider of health care, health care service
10 plan, or contractor to disclose information to a person or entity
11 without the patient’s consent.